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Hearing Date: July 19, 2012
Hearing Time: 10:00 a.m.
Response Deadline: July 6, 2012

Attorneys for Brian W. Monahan

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re

Chapter 11

LEHMAN BROTHERS HOLDINGS INC., *et al.*,

Case No. 08-13555 (JMP)

Debtors.

(Jointly Administered)

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**RESPONSE OF BRIAN W. MONAHAN TO DEBTOR'S 318th OMNIBUS
OBJECTION TO CLAIMS (TO EXPUNGE PROOF OF CLAIM 4706)**

**TO THE HONORABLE JAMES M. PECK,
UNITED STATES BANKRUPTCY JUDGE:**

Brian W. Monahan ("Claimant") by his undersigned counsel, hereby responds to Debtors' 318th and Omnibus Objection to Claims (To Expunge Claim Proof of Claim 4706) (the "Objection"). In support thereof, Claimant respectfully states as follows:

Preliminary Statement

1. Lehman Brothers Holdings Inc. and its affiliates object to Claim No. 4706 (the "Claim") of Claimant on the ground that the Claim is based on an investment by Claimant in a non-debtor entity, MLP Opportunity Capital Partners, L.P., a private equity fund (the "Fund").

2. Claimant is a former employee and client of Lehman Brothers where he worked as a commissioned institutional fixed income sales person from 1986 to 2008.

3. As part of its standard practice, Lehman Brothers allowed and encouraged its sales people to invest in Lehman Brothers products that included hedge funds and private equity as clients. However, industry practices and standards mandate that such investments are reviewed with the investor to ascertain their suitability, appropriateness and to verify that the investor understands the investment and the investment is consistent with the investor's objectives and profile.

4. Lehman Brothers permitted Claimant to invest in the Fund notwithstanding the fact that this investment was inconsistent with his investment objectives and profile and made no effort to advise Claimant that such investment was inconsistent with his investment profile. Had Lehman Brothers advised Claimant that an investment by him in the Fund was not appropriate, he would not have invested in the Fund and would not have suffered the loss set forth in the Claim.

5. Thus, contrary to Lehman Brothers' assertion, the Claim is not against a non-debtor entity, the Fund. Rather, it is against Lehman Brothers for breach of its fiduciary duty to Claimant and gross or intentional negligence in permitting him Claimant to invest in the Fund in the first instance and the allowance of the Claim should be measured by that standard, not the standard set forth in the Objection.

6. It can be demonstrated that Claimant was both an employee and client of Lehman Brothers and that Lehman Brothers encouraged him to make a very large and unsuitable investment that enlarged the Fund's size and profits to Lehman Brothers. Specifically, it can be shown that:

- a. Though Claimant was both an employee and a client of Lehman Brothers, no financial consultant was assigned to Claimant's account to advise him on appropriate investments for his account;

- b. Claimant lacked the necessary experience invest in the Fund without assistance from Lehman Brothers;
- c. Claimant's investment in the Fund was too large, illiquid, risky and lacking in diversification to be appropriate for Claimant; and
- d. Claimant's investment in the Fund was never explained or reviewed with Claimant to determine if it was suitable for his investment objectives and profile;

WHEREFORE, Claimant respectfully requests the entry of order allowing the Claim, in its entirety, as a general unsecured claim, and providing for such other relief as this Court deems just.

Dated: July 6, 2012

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By: /s/ Robert N. Michaelson
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